

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

CHRISTOPHER BOFFOLI, an
individual,

Plaintiff,

v.

ZAZZLE INC., a California corporation,
Defendant.

Case No. 2:20-cv-0183

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

CHRISTOPHER BOFFOLI, (“Boffoli” or “Plaintiff”) hereby alleges for his complaint against ZAZZLE INC. (“Zazzle” or “Defendant”) upon personal information as to Plaintiff’s own activities, and upon information and belief as to the activities of others, as follows:

NATURE OF THE CASE

1. This is a claim for copyright infringement arising under the copyright laws of the United States, Title 17 of the United States Code.

JURISDICTION AND VENUE

2. This Court has exclusive subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Zazzle because it conducts substantial business in the State of Washington and because the acts and omissions in question occurred here.

4. The claims alleged in this Complaint arise in the State of Washington and the Western District of Washington and elsewhere.

5. Venue is appropriate pursuant to 28 U.S.C. § 1391(b)(1-3).

PARTIES

6. Plaintiff is an individual and resident of the state of Washington.

7. Zazzle Inc. is a California corporation with its principal place of business in Reno, Nevada.

FACTS

A. Boffoli created copyrightable photographs and registered them with the U.S. Copyright Office.

8. Boffoli is a fine art, editorial, and commercial photographer who created “Big Appetites,” a series of photographs featuring tiny figures photographed against real food backdrops. Big Appetites has been published in more than 100 countries around the world and has been featured in major publications such as the New York Times, Washington Post, NPR, and CBS This Morning, among many others.

9. Fine art photographs from Boffoli's Big Appetites collection can be found in galleries and private collections in the US, Canada, Europe and Asia. Boffoli is frequently hired by top advertising agencies and brands for commercial commissions based on his work. He also is hired by various publications for editorial commissions. Boffoli's images frequently are licensed for publication in books, magazines, calendars, online publications, commercial websites, and greeting cards.

10. Boffoli's business is based on licensing and selling the photographs he creates. Big Appetites fine art photographs are currently available for purchase at

1 fine art galleries and have also been included in museum exhibitions in the US and
2 abroad.

3 11. Boffoli registered each photograph in the Big Appetites series with the
4 U.S. Copyright Office and has Copyright Registration Nos. VAu001106484 (2011),
5 VAu001148370 (2013), VA0001948517 (2013), and VAu001198948 (2015). A copy
6 of these copyright registrations is attached as Exhibit A.

7 **B. Zazzle posted photographs and created at least one product from Big**
8 **Appetites without license or permission from Boffoli.**

9 12. Zazzle operates a website that allows customers to order products with
10 images placed on them. On or about June 1, 2020, Zazzle displayed one of Boffoli's
11 photographs on Zazzle's website under the heading "ArtFood Photography
12 Postcard." Upon information and belief, Zazzle also made and sold at least one
13 item featuring Boffoli's photograph (collectively with the website image, the
14 "Infringing Content").

15 13. The Infringing Content displayed by Zazzle contains a photograph from
16 Big Appetites without license or permission from Boffoli. A copy of the infringing
17 content is provided as Exhibit B.

18 14. Boffoli never authorized his work to be used or displayed by Zazzle.

19 **CAUSE OF ACTION**
20 **Copyright Infringement**

21 15. Boffoli hereby incorporates Paragraphs 1–14 by reference.

22 16. Boffoli is, and at all relevant times has been, the owner of the copyright
23 in the photographs in the Big Appetites series.

24 17. Each photograph in Big Appetites is copyrightable subject matter under
25 17 U.S.C. § 102(a)(5).

26 18. Boffoli has complied in all respects with the provisions of the Copyright
27 Act and all regulations thereunder.

1 19. Boffoli registered the copyright in each photograph in Big Appetites with
2 the United States Copyright Office.

3 20. Boffoli has the exclusive rights under 17 U.S.C. § 106 to (1) reproduce
4 the photographs in Big Appetites, (2) prepare derivative works based on Big
5 Appetites, (3) distribute copies of Big Appetites, and (4) display Big Appetites
6 publicly.

7 21. Without the permission or consent of Boffoli, a photograph or
8 photographs from Big Appetites were reproduced, derivative works were made
9 from, copies were distributed of, and the photograph or photographs were
10 displayed on Zazzle's website.

11 22. Boffoli's exclusive rights in the photographs in Big Appetites were
12 violated.

13 23. Zazzle acted willfully.

14 **RELIEF REQUESTED**

15 WHEREFORE, Boffoli asks this Court to enter judgment against Zazzle
16 granting the following relief:

17 1. Temporary and permanent injunctions preventing and restraining
18 infringement of Big Appetites by Zazzle under 17 U.S.C. § 502;

19 2. An order requiring the destruction of all copies made by or under the
20 control of Zazzle of the photographs in Big Appetites and all articles by which such
21 copies may be reproduced under 17 U.S.C. § 503;

22 3. An award of the actual damages suffered by Boffoli as the result of
23 Zazzle's infringement plus the profits of Zazzle attributable to the infringement
24 under 17 U.S.C. § 504(b);

25 4. Alternatively, if Boffoli so elects, an award of statutory damages for each
26 infringement of Big Appetites under 17 U.S.C. § 504;

27 5. A judgment that Zazzle's infringement was willful and an increased
28 statutory damage award under 17 U.S.C. § 504(c)(2);

1 6. An award of Plaintiff's full costs including a reasonable attorney's fee
2 under 17 U.S.C. § 505; and

3 7. For such other and further relief as may be just and proper under the
4 circumstances.

5
6 Dated: July 14, 2020

Respectfully submitted,

7 NEWMAN DU WORS LLP

8
9 s/ Keith Scully

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15 Counsel for Plaintiff

16 Christopher Boffoli

17 **JURY DEMAND**

18 Pursuant to Fed. R. Civ. P. 38(b), Plaintiff Christopher Boffoli demands a trial
19 by jury of all issues presented in this complaint which are triable by jury.

20
21 Dated: July 14, 2020

Respectfully submitted,

22 NEWMAN DU WORS LLP

23
24 s/ Keith Scully

25 Keith Scully, WSBA No. 28677

26 Counsel for Plaintiff

27 Christopher Boffoli